

or may refer the case back to the administrative law judge for further proceedings.

(f) *Delivery.* The final decision and implementing order shall be served on the parties and will be publicly available in accordance with § 280.221 of this part.

(g) *Judicial review.* The charged party may appeal the Under Secretary's written order within 30 days to the appropriate United States District Court pursuant to section 9(b)(3) of the Act (15 U.S.C. 5408(b)(3)) by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Chief Counsel for Export Administration, Room H-3839, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The findings and order of the Under Secretary shall be set aside by such court if they are found to be unsupported by substantial evidence, as provided in section 706(2) of title 5 United States Code.

[61 FR 50558, Sept. 26, 1996. Redesignated and amended at 65 FR 39802, June 28, 2000]

### Subpart D—Recordal of Insignia

#### § 280.300 Recorded insignia required prior to offer for sale.

Unless the specifications provide otherwise, if a fastener is required by the applicable consensus standard(s) to bear an insignia identifying its manufacturer, the manufacturer must:

(a) Record the insignia with the U.S. Patent and Trademark Office prior to any sale or offer for sale of the fastener; and

(b) Apply the insignia to any fastener that is sold or offered for sale. The insignia must be readable, and must be applied using the method for applying a permanent insignia that is provided for in the applicable consensus standard(s), or, if the applicable consensus standard(s) do(es) not specify a method for applying a permanent insignia, through any means of imprinting a permanent impression.

[65 FR 39803, June 28, 2000]

#### THE WRITTEN APPLICATION

#### § 280.310 Application for insignia.

(a) Each manufacturer must submit a written application for recordal of an insignia on the Fastener Insignia Register along with the prescribed fee. The application must be in a form prescribed by the Director, USPTO.

(b) The written application must be in the English language and must include the following:

(1) The name of the manufacturer;

(2) The address of the manufacturer;

(3) The entity, domicile, and state of incorporation, if applicable, of the manufacturer;

(4) Either:

(i) A request for recordal and issuance of a unique alphanumeric designation by the Director, USPTO, or

(ii) A request for recordal of a trademark, which is the subject of either a duly filed application or a registration for fasteners in the name of the manufacturer in the U.S. Patent and Trademark Office on the Principal Register, indicating the application serial number or registration number and accompanied by a copy of the drawing that was included with the application for trademark registration, or a copy of the registration;

(5) A statement that the manufacturer will comply with the applicable provisions of the Fastener Quality Act;

(6) A statement that the applicant for recordal is a "manufacturer" as that term is defined in 15 U.S.C. 5402;

(7) A statement that the person signing the application on behalf of the manufacturer has personal knowledge of the facts relevant to the application and that the person possesses the authority to act on behalf of the manufacturer;

(8) A verification stating that the person signing declares under penalty of perjury under the laws of the United States of America that the information and statements included in the application are true and correct; and

(9) The application fee.

(c) A manufacturer may designate only one trademark for recordal on the Fastener Insignia Register in a single application. The trademark application or registration that forms the basis for the fastener recordal must be in active

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status, that is, a pending application or a registration which is not expired, or canceled, at the time of the application for recordal.

(d) Applications and other documents should be addressed to: Box Fastener, Director, United States Patent and Trademark Office, Washington, DC 20231.

[61 FR 50558, Sept. 26, 1996. Redesignated and amended at 65 FR 39803, June 28, 2000]

### **§ 280.311 Review of the application.**

The Director, USPTO, will review the application for compliance with § 280.310. If the application does not contain one or more of the elements required by § 280.310, the Director, USPTO, will not issue a certificate of recordal, and will return the papers and fees. The Director, USPTO, will notify the applicant for recordal of any defect in the application. Applications for recordal of an insignia may be re-submitted to the Director, USPTO, at any time.

[65 FR 39803, June 28, 2000]

### **§ 280.312 Certificate of recordal.**

(a) If the application complies with the requirements of § 280.310, the Director, USPTO, shall accept the application and issue a certificate of recordal. Such certificate shall be issued in the name of the United States of America, under the seal of the United States Patent and Trademark Office, and a record shall be kept in the United States Patent and Trademark Office. The certificate of recordal shall display the recorded insignia of the manufacturer, and state the name, address, legal entity and domicile of the manufacturer, as well as the date of issuance of such certificate.

(b) Certificates that were issued prior to June 8, 1999, shall remain in active status and may be maintained in accordance with the provisions of § 280.320 of this subpart, but only if:

(1) The certificate is held by a manufacturer, and

(2) The fasteners associated with the certificate are fasteners that must bear an insignia pursuant to 15 U.S.C. 5407.

[65 FR 39803, June 28, 2000]

## **15 CFR Subtitle B, Ch. II (1-1-03 Edition)**

### **§ 280.313 Recordal of additional insignia.**

(a) A manufacturer to whom the Director, USPTO, has issued an alphanumeric designation may apply for recordal of its trademark for fasteners if the trademark is the subject of a duly filed application or is registered in the United States Patent and Trademark Office on the Principal Register. Upon recordal, either the alphanumeric designation or the trademark, or both, may be used as recorded insignias.

(b) A manufacturer for whom the Director, USPTO, has recorded a trademark as its fastener insignia may apply for issuance and recordal of an alphanumeric designation as a fastener insignia. Upon recordal, either the alphanumeric designation or the trademark, or both, may be used as recorded insignias.

[61 FR 50558, Sept. 26, 1996. Redesignated and amended at 65 FR 39803, June 28, 2000]

## **POST-RECORDAL MAINTENANCE**

### **§ 280.320 Maintenance of the certificate of recordal.**

(a) Certificates of recordal remain in an active status for five years and may be maintained in an active status for subsequent five-year periods running consecutively from the date of issuance of the certificate of recordal upon compliance with the requirements of paragraph (c) of this section.

(b) Maintenance applications shall be required only if the holder of the certificate of recordal is a manufacturer at the time the maintenance application is required.

(c) Certificates of recordal will be designated as inactive unless, within six months prior to the expiration of each five-year period running consecutively from the date of issuance, the certificate holder files the prescribed maintenance fee and the maintenance application. The maintenance application must be in the English language and must include the following:

(1) The name of the manufacturer;  
(2) The address of the manufacturer;  
(3) The entity, domicile, and state of incorporation, if applicable, of the manufacturer;

(4) A copy of manufacturer's certificate of recordal;